

<p style="text-align: right;">Page 126</p> <p>1 Q. Were you involved in any regulatory matters</p> <p>2 concerning filings to any regulatory bodies in</p> <p>3 Europe?</p> <p>4 A. No.</p> <p>5 Q. Did you have any involvement in patent filings?</p> <p>6 A. No involvement in patent filings, no.</p> <p>7 Q. Did you have any other involvement with patents</p> <p>8 at Bentley Pharmaceuticals?</p> <p>9 A. Yes, in preparing lists of existing patents</p> <p>10 for -- in the U.S. as they were filed and lists</p> <p>11 of patents that were known that were filed by</p> <p>12 Laboratorios Belmac to Spanish authorities, and</p> <p>13 these would normally end up in an area of our</p> <p>14 management report.</p> <p>15 Q. And from whom did you obtain information about</p> <p>16 lists of existing patents in the United States</p> <p>17 as they were filed?</p> <p>18 A. Either from Jim Murphy or Bob Gyurik.</p> <p>19 Q. And from whom did you obtain information about</p> <p>20 lists of patents as they were filed by</p> <p>21 Laboratorios Belmac?</p> <p>22 A. From Jim Murphy.</p> <p>23 Q. Did you receive any information about any</p> <p>24 regulatory filings by Laboratorios Belmac from</p>	<p style="text-align: right;">Page 128</p> <p>1 usually their patent number, and a brief summary</p> <p>2 of what the patent was about.</p> <p>3 Q. Any -- did you receive any information about</p> <p>4 regulatory filings other than patents from</p> <p>5 Laboratorios Belmac or -- concerning</p> <p>6 Laboratorios Belmac from Mr. Murphy?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. What information did you receive?</p> <p>9 A. Frequently, there would be products submitted to</p> <p>10 the Ministry of Health in Spain by Laboratorios</p> <p>11 Belmac for marketing authorization, and those</p> <p>12 were of direct interest to Bentley.</p> <p>13 Q. And do you recall what those products were?</p> <p>14 A. No. There were many, several.</p> <p>15 Q. Do you recall how Mr. Murphy informed you of</p> <p>16 those products submitted for marketing</p> <p>17 authorization?</p> <p>18 A. Normally once they were made public, through a</p> <p>19 press release, they may or may not have been</p> <p>20 discussed at management meetings or from time to</p> <p>21 time, we would have comments related to one</p> <p>22 pending approval. For product authorization, it</p> <p>23 was submitted to the MOH in Spain, Ministry of</p> <p>24 Health, and it was pending, it would be of</p>
<p style="text-align: right;">Page 127</p> <p>1 Jim Murphy?</p> <p>2 MS. ABREU: Objection, vague.</p> <p>3 A. Could you either rephrase that or ask that</p> <p>4 another way?</p> <p>5 Q. Sure. You've testified that you received lists</p> <p>6 of patents filed by Laboratorios Belmac from Jim</p> <p>7 Murphy; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Did you receive lists of patents filed by</p> <p>10 Laboratorios Belmac from anyone else?</p> <p>11 A. No.</p> <p>12 Q. Okay. Did you receive any other information</p> <p>13 about regulatory filings filed by Laboratorios</p> <p>14 Belmac?</p> <p>15 A. No.</p> <p>16 Q. Did you receive any information about regulatory</p> <p>17 filings from Laboratorios Belmac from Jim</p> <p>18 Murphy?</p> <p>19 MS. ABREU: Objection, asked and</p> <p>20 answered.</p> <p>21 A. Yes. I answered that yes.</p> <p>22 Q. What information did you receive from</p> <p>23 Mr. Murphy?</p> <p>24 A. Just a list of the few patents that were issued,</p>	<p style="text-align: right;">Page 129</p> <p>1 interest to us.</p> <p>2 Q. Which product was that?</p> <p>3 A. I can't identify specific. There were many,</p> <p>4 many, many.</p> <p>5 Q. But you indicated a moment ago that there was</p> <p>6 one pending. Do you recall which one that was?</p> <p>7 A. No. If at any point in time one was pending, it</p> <p>8 may be listed as pending in our management</p> <p>9 report.</p> <p>10 Q. And pending products were listed or -- pending</p> <p>11 products --</p> <p>12 A. Pending approvals were listed frequently.</p> <p>13 Q. Pending approvals submitted by Laboratorios</p> <p>14 Belmac were frequently listed in the Bentley</p> <p>15 Pharmaceuticals management meeting agendas?</p> <p>16 A. Maybe I should take out the word "frequently."</p> <p>17 They were listed periodically. I can't recall</p> <p>18 how frequent it really was.</p> <p>19 Q. Do you recall whether they were ever discussed,</p> <p>20 whether pending approvals submitted by</p> <p>21 Laboratorios Belmac were ever discussed at</p> <p>22 Bentley Pharmaceuticals management meetings?</p> <p>23 A. Probably more in relation to the operations</p> <p>24 update to the board of directors. That's what I</p>

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<p style="text-align: right;">Page 130</p> <p>1 recollect. There were pending approvals. For 2 instance, if you look at Exhibit 13, that list 3 that's in there on Page 2, you'll see that 4 that's a year 2002 planned generic drug 5 submissions. That would be a list of ones that 6 would be of interest to us that were going to be 7 submitted during the year. So at any point in 8 time, any one of those drugs could be pending 9 approval by the Ministry of Health.</p> <p>10 Q. In Spain?</p> <p>11 A. In Spain, as submitted by Laboratorios Belmac.</p> <p>12 Q. And do you recall who the outside contract 13 assistance was provided by for Bentley 14 Pharmaceuticals?</p> <p>15 A. Regulatory?</p> <p>16 Q. For regulatory matters.</p> <p>17 A. Yes.</p> <p>18 Q. And who was that?</p> <p>19 A. Her name was Brenda Stoezle, S T O E Z L E, I 20 think it is.</p> <p>21 Q. And do you recall whether Ms. Stoezle had a 22 legal background?</p> <p>23 A. I don't recall. I do know she was not a lawyer.</p> <p>24 Q. And how did Miss Stoezle manage or -- what were</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. In New Hampshire?</p> <p>2 A. In New Hampshire.</p> <p>3 Q. I'd like to go back to a comment you made a few 4 seconds ago. You indicated that Spanish 5 regulatory or marketing approvals submitted by 6 Laboratorios Belmac were of interest to Bentley 7 Pharmaceuticals. Where were they of interest?</p> <p>8 A. Because Laboratorios Belmac was the primary 9 revenue generator for Bentley Pharmaceuticals. 10 Bentley is a public company on the New York 11 Stock Exchange, and anything affecting revenue 12 up or down is of primary importance to the 13 company.</p> <p>14 Q. Okay. Thank you.</p> <p>15 MR. FINE: Can we take a lunch break?</p> <p>16 MS. ABREU: That sounds good to me.</p> <p>17 (Luncheon recess taken from 12:52 p.m. to 18 1:39 p.m.)</p> <p>19 Q. Mr. Fitzgibbons, welcome back. Before we broke 20 for lunch, we had been discussing regulatory 21 matters, and I just wanted to ask you with 22 regard to one document whether that related to 23 your responsibilities in regulatory matters. So 24 I'm going to ask the court reporter to mark</p>
<p style="text-align: right;">Page 131</p> <p>1 Miss Stoezle's responsibilities as outside 2 contract assistance for regulatory matters?</p> <p>3 A. To develop regulatory documents for filing to 4 the FDA as directed by the company.</p> <p>5 Q. Was Ms. Stoezle a physician?</p> <p>6 A. A physician? No.</p> <p>7 Q. Or registered nurse?</p> <p>8 A. No.</p> <p>9 Q. Do you know if she had a science degree?</p> <p>10 A. I don't know that.</p> <p>11 Q. And was Ms. Stoezle associated or affiliated 12 with any company as a contract assistant?</p> <p>13 A. I'm sure she had her own consulting company, but 14 I don't recall what the name of it was.</p> <p>15 Q. And what assistance did you provide Ms. Stoezle?</p> <p>16 A. It was primarily as a liaison at certain stages 17 of projects that she might have been working on 18 or if we needed to retain certain files resident 19 at the company, she would send those to me and 20 basically I would be the repository for them at 21 the company and make sure we got them properly 22 filed.</p> <p>23 Q. And where were those files maintained?</p> <p>24 A. At Bentley Pharmaceuticals.</p>	<p style="text-align: right;">Page 133</p> <p>1 another exhibit.</p> <p>2 (Copy of E-mail to Mr. Murphy by 3 Mr. Fitzgibbons, dated January 7, 2003 4 was marked Exhibit Number 14 for 5 identification.)</p> <p>6 MR. FINE: While the witness is 7 reviewing the exhibit, I'll identify for the 8 record that it's a document that's marked with 9 Bates Number BEL 042855.</p> <p>10 A. Okay.</p> <p>11 Q. Do you recognize this document?</p> <p>12 A. Just only from this e-mail, from the -- today as 13 you're handing it to me.</p> <p>14 Q. Have you seen this document before?</p> <p>15 A. I probably did -- I don't recall it -- since I 16 was copied on it.</p> <p>17 Q. Do you have any reason to think you did not 18 receive this document?</p> <p>19 A. No.</p> <p>20 Q. This document is an e-mail; is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And it's from Concha Sanchez?</p> <p>23 A. Yes.</p> <p>24 Q. To Jim Murphy?</p>

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<p style="text-align: right;">Page 134</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And you were CCed on it?</p> <p>3 A. Yes.</p> <p>4 Q. Do you recognize Miss Sanchez, Concha Sanchez?</p> <p>5 A. Yes.</p> <p>6 Q. Who is Concha Sanchez?</p> <p>7 A. She's a secretary for Adolfo Herrera, personal</p> <p>8 assistant.</p> <p>9 Q. And who is Mr. Herrera?</p> <p>10 A. He's the general manager for Laboratorios</p> <p>11 Belmac.</p> <p>12 Q. Okay. And --</p> <p>13 A. In fact, this was really not from Concha. This</p> <p>14 was from Adolfo. She would often send out his</p> <p>15 e-mails. You notice that it's "Best regards,</p> <p>16 Adolfo."</p> <p>17 Q. So this is a letter, as you understand it, from</p> <p>18 Adolfo Herrera sent by Concha Sanchez, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And do you understand what the e-mail is about?</p> <p>21 A. Not really, only from reading what it says in</p> <p>22 there.</p> <p>23 Q. Do you understand why you were CCed on it?</p> <p>24 A. I can guess. I was often CCed on documents that</p>	<p style="text-align: right;">Page 136</p> <p>1 mailing of this to Mr. Stote and Miss Stoezle in</p> <p>2 addition to Mr. Murphy why you might have been</p> <p>3 CCed on it?</p> <p>4 A. The only reason is, as I say, because I often</p> <p>5 supported Bob Stote, Dr. Stote, in any dealings</p> <p>6 he would have on clinical matters.</p> <p>7 Q. And does this relate to a clinical matter?</p> <p>8 A. I don't know that, that it does.</p> <p>9 Q. Do you recall any conversations about any of the</p> <p>10 subjects described in this e-mail?</p> <p>11 A. No, I don't.</p> <p>12 Q. Okay. You mentioned a few moments ago that you</p> <p>13 knew Concha Sanchez as an assistant to</p> <p>14 Mr. Adolfo Herrera; is that correct?</p> <p>15 A. That's correct.</p> <p>16 Q. Do you know any other employees of Laboratorios</p> <p>17 Belmac?</p> <p>18 A. Yes.</p> <p>19 Q. Who else do you know at Laboratorios Belmac?</p> <p>20 A. Well, I've met several, but the ones that I</p> <p>21 recall are Nieves Hernandez. She's a doctor, a</p> <p>22 medical doctor. Of course, Adolfo Herrera</p> <p>23 himself; Concha, who I've met a couple of times.</p> <p>24 There are others but no knowledge of them other</p>
<p style="text-align: right;">Page 135</p> <p>1 went to Dr. Stote or from time to time on things</p> <p>2 that were related to Brenda Stoezle.</p> <p>3 Q. And as you recall, did this e-mail relate to</p> <p>4 your regulatory responsibilities at Bentley?</p> <p>5 A. No, not at all.</p> <p>6 Q. Not at all?</p> <p>7 A. No.</p> <p>8 Q. Why do you recall not at all?</p> <p>9 A. Because I wouldn't have had anything to do with</p> <p>10 this -- these topics that are in here.</p> <p>11 Q. What are these topics?</p> <p>12 A. One has to do with omeprazole. One has to do</p> <p>13 with Simvastatin.</p> <p>14 Q. And where do you see -- okay. So the first</p> <p>15 three items, 1, 2, and 3, do those relate to</p> <p>16 omeprazole?</p> <p>17 A. It appears they do, yeah.</p> <p>18 Q. And the item below them relates to Simvastatin;</p> <p>19 is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. Do you understand what omeprazole is?</p> <p>22 A. What the drug product is? Omeprazole, it's a</p> <p>23 drug product, sure.</p> <p>24 Q. And do you recall any reason other than the</p>	<p style="text-align: right;">Page 137</p> <p>1 than just a casual meeting.</p> <p>2 Q. And where did you meet employees of Laboratorios</p> <p>3 Belmac?</p> <p>4 A. On two separate visits to Madrid and Zaragoza,</p> <p>5 Spain, two locations where Laboratorios Belmac</p> <p>6 had business offices or manufacturing plant.</p> <p>7 Q. And when did you visit Madrid?</p> <p>8 A. I can't recall the specific dates. I would</p> <p>9 guess it was in 2001 sometime and possibly 2002.</p> <p>10 Q. Do you recall if your visits to Spain were for</p> <p>11 business?</p> <p>12 A. Yes.</p> <p>13 Q. Have you visited Spain at any other time other</p> <p>14 than for business for Bentley Pharmaceuticals?</p> <p>15 A. No.</p> <p>16 Q. Do you recall whether your first visit in 2001</p> <p>17 was at the beginning of the year or at the end</p> <p>18 of the year?</p> <p>19 A. I don't recall.</p> <p>20 Q. Did you visit Zaragoza on that occasion?</p> <p>21 A. Yes.</p> <p>22 Q. Did you visit Laboratorios Belmac's offices in</p> <p>23 Madrid on that occasion?</p> <p>24 A. Yes.</p>

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1 Q. Did you accompany anyone on that visit?
 2 A. Yes.
 3 Q. Whom did you accompany?
 4 A. Jim Murphy.
 5 Q. Anyone else?
 6 A. No.
 7 Q. For what purpose did you visit Spain in 2001
 8 with Jim Murphy?
 9 A. My purpose was more for familiarization with the
 10 headquarters for Laboratorios Belmac in Madrid
 11 and their manufacturing operations in Zaragoza.
 12 Q. Do you know what Jim Murphy's purpose in
 13 visiting Spain was?
 14 A. I do not know.
 15 Q. Did he ever tell you why he was visiting Spain
 16 in 2001 with you?
 17 A. No.
 18 Q. Whose idea was it that you should visit Spain in
 19 2001 with Mr. Murphy?
 20 A. It was primarily Jim's, but it was out of my own
 21 desire as well to go there and get familiar with
 22 what was happening there.
 23 Q. How long did you stay there?
 24 A. It's a three-day stay each.

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1 Q. Do you recall whether your visit in 2002 was for
 2 three days?
 3 A. Not exactly. It was no more than three days.
 4 Q. Okay. So that I'm clear, you said in 2001, you
 5 visited Madrid or -- Spain with Jim Murphy, and
 6 you visited Madrid for three days and you
 7 visited Zaragoza for three days?
 8 A. No, no, combination of the two. It was just a
 9 three-day trip total where we visited both
 10 locations during that trip.
 11 Q. And on the occasion in 2002 when you visited
 12 Spain, do you recall the purpose of that trip?
 13 A. It was follow-on familiarization, a review of
 14 the manufacturing plant, taking a look at new
 15 equipment that was purchased and installed, just
 16 kind of a more in-depth look at what they do and
 17 how they operate.
 18 Q. And did you also accompany Mr. Murphy on that
 19 occasion?
 20 A. Yes, I did.
 21 Q. In your first visit to Spain in 2001, do you
 22 recall which employees of Laboratorios Belmac
 23 you met with?
 24 A. I can't name them all, just the primary ones I

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1 mentioned to you earlier. There were a number
 2 of people on the staff under Adolfo Herrera that
 3 I met. I can't even remember their names
 4 actually.
 5 Q. Does anything stick in your mind about that
 6 visit?
 7 A. It was an interesting visit. Enjoyed it. Got
 8 an opportunity to -- particularly the
 9 manufacturing operations in Zaragoza, to see the
 10 improvements in the plant, equipment that was
 11 installed.
 12 Q. And this is in 2001?
 13 A. No, that was the second visit I'm referring to.
 14 Q. And do you recall what equipment was installed
 15 in 2002?
 16 A. It was some pretty high-volume equipment. I'm
 17 not even sure of the name of it. It was
 18 microgranulation processing equipment that I
 19 recall. I don't know what the specific name of
 20 it was.
 21 Q. And do you recall when in 2002 you made that
 22 trip?
 23 A. No.
 24 Q. Was it in the first half of 2002?

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1 A. I can't recall.
 2 Q. When you left the United States -- I'm assuming
 3 you left the United States to travel to Spain.
 4 Did you leave the United States to travel to
 5 Spain?
 6 A. Yes.
 7 Q. Was it winter in the United States when you
 8 left?
 9 A. I can't recall. I really don't know what time
 10 of year it was. I'd have to look back in travel
 11 records.
 12 Q. Do you keep travel records?
 13 A. Sure.
 14 Q. Do you keep records of your travel for Bentley
 15 Pharmaceuticals?
 16 A. Yes.
 17 Q. Are those records kept in your office at Bentley
 18 Pharmaceuticals?
 19 A. Generally for a period of time before I toss
 20 them out.
 21 Q. Do you still have records of your trip to Spain?
 22 A. Primarily through expense reports I've
 23 submitted.
 24 Q. To whom do you submit expense reports?

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<p style="text-align: right;">Page 142</p> <p>1 A. To my -- whoever my supervisor is for approval, 2 and ultimately it goes to finance for approval 3 and payment. 4 Q. And in 2001 and 2002, who was your supervisor? 5 A. Bob Gyurik. 6 Q. Do you recall submitting expense reports for 7 your trips to Spain in 2001 and 2002? 8 A. No, I don't recall actually submitting them to 9 him, but I'm sure I did. 10 Q. Okay. Why are you sure you did? 11 A. Because I submit everything of that nature that 12 requires his approval to him. 13 Q. Why -- do you recall -- strike that. Did Jim 14 Murphy accompany you on your visit to the 15 Zaragoza plant in 2002 to examine 16 microgranulation equipment? 17 MS. ABREU: Objection, 18 mischaracterizes testimony. 19 A. I don't know what all his purposes were. I know 20 that, obviously, that was one because we both 21 viewed it together. 22 Q. Did you discuss that microgranulation equipment 23 with Mr. Murphy? 24 A. Only during the visit and, you know, as we were</p>	<p style="text-align: right;">Page 144</p> <p>1 equipment that he owned as the general manager. 2 Q. How did you come to understand that he was proud 3 of the new piece of equipment? 4 A. Because he was happy, he had a smile on his 5 face. 6 Q. Did you have a smile on your face? 7 A. No, I didn't, not that I recall. 8 Q. Did Mr. Murphy have a smile on his face? 9 A. I don't recall that. 10 Q. Do you recall anything about your visit to 11 Madrid in 2002? 12 A. Other than -- well, I recall visiting the 13 headquarters in Madrid for Laboratorios Belmac, 14 and I recall the tour of the plant in Zaragoza 15 during the same visit. 16 Q. Do you recall whether it was hot in Madrid or 17 cold in Madrid? 18 MS. ABREU: Objection, asked and 19 answered. 20 A. I don't know. I don't recall. I don't think it 21 was excessively hot or excessively cold. 22 Somewhere in between. 23 Q. Did you bring a great deal of luggage with you 24 or very little?</p>
<p style="text-align: right;">Page 143</p> <p>1 actually viewing the equipment. 2 Q. Do you recall what that discussion was about? 3 A. No, I don't. 4 Q. But you do recall discussing it with him? 5 A. Yes. 6 Q. Do you recall when that equipment was acquired 7 by Laboratorios Belmac? 8 A. No, I don't. 9 Q. Do you recall anything else about that equipment 10 from your visit to Spain in 2002? 11 A. No, nothing specific other than it was nice, a 12 new, shiny, stainless steel piece of equipment. 13 Q. Do you recall who at Laboratorios Belmac showed 14 you and Mr. Murphy that equipment? 15 A. Yes. 16 Q. Who was that? 17 A. Adolfo Herrera. 18 Q. Do you recall any comments that Mr. Herrera made 19 while showing you that equipment? 20 A. No, nothing specific. 21 Q. Do you recall any general comments that 22 Mr. Herrera made while showing you that 23 equipment? 24 A. Only that he was proud of the new piece of</p>	<p style="text-align: right;">Page 145</p> <p>1 A. No. 2 Q. Do you remember bringing any winter coats? 3 A. No. 4 Q. Summer clothing? 5 MS. ABREU: Objection, asked and 6 answered. 7 A. Just average clothing, a suit, tie. 8 Q. Do you recall bringing a jacket? 9 A. No. 10 Q. Do you recall bringing an overcoat? 11 A. No. 12 Q. Okay. Do you keep a calendar of your 13 activities? 14 A. I do generally for the current year. 15 Q. And what do you do with that calendar after that 16 current year? 17 A. Toss it, chuck it. 18 Q. Do you keep an electronic calendar for your 19 activities? 20 A. No, I'm not in the habit of keeping an 21 electronic calendar. 22 Q. Do you have a PDA? 23 A. No. 24 Q. Do you keep any entries in Microsoft Outlook, if</p>

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<p style="text-align: right;">Page 146</p> <p>1 you use that?</p> <p>2 A. I don't use the calendar in Microsoft Outlook,</p> <p>3 if that's what you're referring to.</p> <p>4 Q. I'd like to show you a couple more documents,</p> <p>5 but before I do, you testified earlier today</p> <p>6 that you assisted with presentations made to --</p> <p>7 A. Oh, for Dr. Stote.</p> <p>8 Q. -- various people for Mr. Stote. Do you recall</p> <p>9 to whom those presentations were made?</p> <p>10 A. Really, they weren't -- the type of presentation</p> <p>11 I was referring to, that was for Bob Stote to</p> <p>12 make a presentation or to man a booth at a</p> <p>13 conference, such as the American Diabetes</p> <p>14 Association, very large conferences of that type</p> <p>15 where we were invited to maintain a booth and</p> <p>16 present a wall-type presentation. So when I was</p> <p>17 referring to presentations, it was probably more</p> <p>18 in terms of graphics and helping him prepare</p> <p>19 that wall presentation, if you will.</p> <p>20 Q. I'm going to show you a document. You recall</p> <p>21 that being in the year 2003; is that correct?</p> <p>22 A. Could have been. I'm not sure if it was 2003.</p> <p>23 It was more than one conference.</p> <p>24 (Presentation to Bentley</p>	<p style="text-align: right;">Page 148</p> <p>1 my familiarization of the plant, and whether I</p> <p>2 was there or not, whoever may have visited</p> <p>3 probably would have seen the same thing.</p> <p>4 Q. And was that because the microgranulation</p> <p>5 equipment was significant?</p> <p>6 A. I think anything that occurred to the plant, you</p> <p>7 know, was of interest to Bentley in the U.S.,</p> <p>8 whether it was expansion, improvement, whatever</p> <p>9 because, as I stated earlier, anything that</p> <p>10 affects their ability to generate revenue is of</p> <p>11 interest to Bentley.</p> <p>12 Q. And this equipment was of interest?</p> <p>13 A. Certainly any new piece of equipment would be.</p> <p>14 Q. Thank you. I just have a couple of quick</p> <p>15 questions that we can probably deal with quite</p> <p>16 quickly. Earlier today, after the -- well,</p> <p>17 would you please identify yourself for the</p> <p>18 record?</p> <p>19 A. My name is Paul Fitzgibbons.</p> <p>20 Q. And would you spell that, please?</p> <p>21 A. Sure. F I T Z G I B B O N S.</p> <p>22 Q. And, Mr. Fitzgibbons, would you please state</p> <p>23 your primary residence for the record, please?</p> <p>24 A. I reside at 15 Hobbs Road, H O B B S, North</p>
<p style="text-align: right;">Page 147</p> <p>1 Pharmaceuticals, Inc. was marked Exhibit</p> <p>2 Number 15 for identification.)</p> <p>3 Q. Do you recognize this document?</p> <p>4 A. No, I don't.</p> <p>5 Q. Have you ever seen this document before?</p> <p>6 A. Not that I can recall.</p> <p>7 Q. Did you have any involvement in the preparation,</p> <p>8 compilation or writing of this document?</p> <p>9 MS. ABREU: Objection, asked and</p> <p>10 answered.</p> <p>11 A. Not that I can recall. I don't believe I had</p> <p>12 anything to do with it.</p> <p>13 Q. Okay. I'd like to come back for just a second</p> <p>14 to 2002 and Spain. You testified a few moments</p> <p>15 ago that you recalled visiting the Zaragoza</p> <p>16 plant in 2002 to see new microgranulation</p> <p>17 equipment acquired by Laboratorios Belmac; is</p> <p>18 that correct?</p> <p>19 MS. ABREU: Objection,</p> <p>20 mischaracterizes testimony.</p> <p>21 A. That was not the primary purpose, just to go</p> <p>22 visit and see this new equipment.</p> <p>23 Q. But it was a purpose?</p> <p>24 A. It was a part of the visit that had to do with</p>	<p style="text-align: right;">Page 149</p> <p>1 Hampton, New Hampshire 03862.</p> <p>2 Q. And are you presently married?</p> <p>3 A. Yes.</p> <p>4 Q. To whom are you married?</p> <p>5 A. To Geraldine Fitzgibbons.</p> <p>6 Q. And do you have any children with</p> <p>7 Miss Fitzgibbons -- Mrs. Fitzgibbons?</p> <p>8 A. Yes.</p> <p>9 Q. How many children do you have?</p> <p>10 A. I have two.</p> <p>11 Q. And what are their names?</p> <p>12 A. Kristin. She's married now. You want her full</p> <p>13 name?</p> <p>14 Q. Please.</p> <p>15 A. Kristin McCarthy, and Shea Fitzgibbons. Shea is</p> <p>16 S H E A.</p> <p>17 Q. And in what year were you born, Mr. Fitzgibbons?</p> <p>18 A. 1946.</p> <p>19 MR. FINE: Thank you very much. I</p> <p>20 have no further questions.</p> <p>21 MS. ABREU: Mr. Fitzgibbons, I have</p> <p>22 just a couple of questions for you.</p> <p>23 EXAMINATION BY MS. ABREU:</p> <p>24 Q. As Mr. Fine stated earlier, my name is Veronica</p>

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<p style="text-align: right;">Page 150</p> <p>1 Abreu, and I represent Bentley Pharmaceuticals</p> <p>2 in this case. I just wanted to clarify a couple</p> <p>3 of things. Do you recall earlier today when you</p> <p>4 testified regarding the project management</p> <p>5 reports that you prepared concerning the</p> <p>6 management meetings?</p> <p>7 A. Yes.</p> <p>8 Q. Well, strike that. Before I ask you that, you</p> <p>9 mentioned Laboratorios Belmac in the testimony</p> <p>10 earlier today; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Is Laboratorios Belmac related to Bentley</p> <p>13 Pharmaceuticals, Inc.?</p> <p>14 A. Yes.</p> <p>15 Q. And what is Laboratorios Belmac?</p> <p>16 A. It's a wholly owned subsidiary of Bentley</p> <p>17 Pharmaceuticals, Inc.</p> <p>18 Q. Okay. And going back to the project status</p> <p>19 reports that you wrote regarding the management</p> <p>20 meetings, was the projects or activities -- were</p> <p>21 there any reports included in those project</p> <p>22 management -- project status reports, excuse me,</p> <p>23 regarding the projects or activities of</p> <p>24 Bentley's subsidiary, Laboratorios Belmac?</p>	<p style="text-align: right;">Page 152</p> <p>1 Q. Are those activities the activities of</p> <p>2 Laboratorios Belmac in Spain?</p> <p>3 A. Yes, they are.</p> <p>4 MS. ABREU: Thank you,</p> <p>5 Mr. Fitzgibbons. I have no further questions.</p> <p>6 MR. FINE: I think we're done.</p> <p>7 (Deposition concluded at 2:06 p.m.)</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 151</p> <p>1 A. No. Maybe you should -- would you repeat it?</p> <p>2 MS. ABREU: Would you read back the</p> <p>3 question, please or I can clarify if you like?</p> <p>4 (Reporter read back the last question.)</p> <p>5 A. Yes, there were.</p> <p>6 Q. And just to clarify for the record, those would</p> <p>7 be the reports marked as Exhibits 1 through 7;</p> <p>8 is that correct, the project status reports?</p> <p>9 A. I don't understand the question.</p> <p>10 Q. The project status reports --</p> <p>11 A. Yes.</p> <p>12 Q. -- to the management committee are marked here</p> <p>13 today as Exhibits -- some of them have been</p> <p>14 marked here today as Exhibit 1 through Exhibit</p> <p>15 7; is that correct?</p> <p>16 A. Let me look. That's correct, yes.</p> <p>17 Q. And you stated earlier today that Exhibits 8</p> <p>18 through 13 were operations updates to the</p> <p>19 Bentley board which you drafted; is that</p> <p>20 correct?</p> <p>21 A. That's correct.</p> <p>22 Q. And in those operations updates, under the</p> <p>23 heading that says Spain Activities?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 153</p> <p>1 CERTIFICATE</p> <p>2 I, PAUL FITZGIBBONS, do hereby certify that I</p> <p>3 have read the foregoing transcript of my</p> <p>4 testimony, given on August 3, 2006, and I</p> <p>5 further certify that said transcript is a true</p> <p>6 and accurate record of said testimony (with the</p> <p>7 exception of the corrections listed below):</p> <p>8 Page Line Correction</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 Dated at , this</p> <p>18 day of , 2006.</p> <p>19</p> <p>20 PAUL FITZGIBBONS</p> <p>21</p> <p>22 SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY</p> <p>23</p> <p>24 slb</p>

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CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
SUFFOLK, SS

I, Sandra L. Bray, Registered Diplomat
Reporter and Notary Public in and for the
Commonwealth of Massachusetts, do hereby
certify:

That PAUL FITZGIBBONS, the witness whose
deposition is hereinbefore set forth, was duly
sworn by me and that such deposition is a true
record of my stenotype notes taken in the
foregoing matter, to the best of my knowledge,
skill and ability.

IN WITNESS WHEREOF, I have hereunto set
my hand this 7th day of August, 2006.

Sandra L. Bray, RDR
Registered Diplomat Reporter

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